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**Re: Base to Base Gondola Project Objection**

The following comments are submitted on behalf of the project proponent, Squaw Valley | Alpine Meadows (SVAM), in response to the Draft Record of Decision (ROD) issued by responsible official Eli Ilano, Forest Supervisor of Tahoe National Forest, regarding the proposed Base to Base Gondola Project.

SVAM appreciates the Forest Service's thoughtful and comprehensive assessment of the potential environmental impacts of the project, as reflected in both the Draft ROD and the Final Environmental Impact Statement / Environmental Impact Report (Final EIS/EIR), jointly prepared by Tahoe National Forest and Placer County, on which the Draft ROD was based. In particular, SVAM supports the Forest Service's selection of Alternative 4 from among the reasonable range of alternatives considered. As noted in the Draft ROD, Alternative 4 not only achieves the project's Purpose and Need, but does so with the least environmental impact among all of the action alternatives. Specifically, Alternative 4 will have the least effects on visual resources, endangered species, and the Granite Chief Wilderness.

There are two aspects of the Draft ROD and Final EIS/EIR, however, that should be reconsidered and revised before issuing the Final ROD. First, as SVAM explained in its previously submitted specific written comments on the Draft EIS/EIR, the Caldwell property is not part of the Granite Chief Wilderness and may not be treated as if it were. The Draft ROD and Final EIS/EIR do not adequately address this issue. Second, the Final EIS/EIR incorporates certain new Resource Protection Measures (RPMs) without sufficient analysis or explanation. These changes should be reconsidered for the reasons below.<sup>1</sup>

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<sup>1</sup> SVAM is permitted to object to the revisions to these RPMs because they are "based on new information that arose after the opportunities to comment." 36 C.F.R. § 218.8(c).

**1. The Caldwell property is not part of the Granite Chief Wilderness and may not be treated as if it were.**

In its prior comment on the Draft EIS/EIR, SVAM objected to the inclusion of Impact 4.3-5, which assesses the “effects on potential wilderness characteristics on private lands within the congressionally mapped Granite Chief Wilderness.” The objection was based primarily on the status of private property owned by Troy Caldwell, which is adjacent to, but not part of, the wilderness. Despite recognizing this essential legal distinction, the Final EIS/EIR nevertheless retains Impact 4.3-5. SVAM continues to dispute the legal basis for the Forest Service’s inclusion of this impact in the Final EIS/EIR.

At the same time, SVAM recognizes that the Forest Service’s selection of Alternative 4 (over Alternative 2) as the Selected Alternative has substantially diminished the significance of this issue. Under Alternative 4, no part of the proposed gondola route will enter the portion of the Caldwell property within the congressionally mapped wilderness. And even at its closest point, the gondola will be 1,100 feet away from the actual wilderness boundary. *See* FEIS/EIR 4.3-18. Nevertheless, we reiterate here the basis for SVAM’s objection to Impact 4.3-5.

The Final EIS/EIR in multiple places accurately describes the legal status of the Caldwell property: although some of it falls within the congressionally mapped wilderness, all of it is private property and thus not subject to any of the land-use restrictions applicable on federally owned wilderness. For example, the Final EIS/EIR correctly states:

- “[T]he land use management direction and restrictions imposed by the federal Wilderness Act of 1964 apply only to, and have meaning only upon, federal lands. In other words, the land use restrictions of the Wilderness Act of 1964 do not apply to private parcels, including the Caldwell property.” FEIS/EIR 4.3-2.
- The “portion of the Caldwell property within the congressionally mapped [wilderness] ... is not afforded the same land use management direction or restrictions that apply to federal lands within congressionally mapped wilderness areas, and development is legally permissible there.” FEIS/EIR 4.3-2.
- “Far-reaching land use restrictions are imposed on federal lands included in the [National Wilderness Preservation System]. These protections are afforded only to federal lands within congressionally mapped wilderness areas ... [and] do not apply to private lands within congressionally mapped wilderness areas such as the Caldwell property.” FEIS/EIR 4.3-5.

Given the Forest Service’s repeated (and accurate) recognition of the inapplicability of wilderness land-use restrictions to the Caldwell property, as well as its acknowledgement that development is legally permissible on that property, there is no basis to assess the project’s impact on the “potential wilderness characteristics” of that *private* property. Only federally owned wilderness areas can and must be managed to retain their wilderness character. Mr. Caldwell has no legal obligation—and the Forest Service cannot constitutionally require him—to preserve his property as if it were, or might in the future be, wilderness (*i.e.*, to maintain its “untrammelled, undeveloped, and natural qualities”). It is therefore inappropriate for the Forest Service to include such an assessment under NEPA. As a result, the finding that Alternative 2 would have an adverse impact under NEPA because it “would introduce development inconsistent with potential wilderness characteristics to *private lands*” is legally erroneous. FEIS/EIR 4.3-13 (emphasis added).

Ultimately, the selection of Alternative 4 renders this issue largely moot, because that alignment avoids the congressionally mapped wilderness altogether. The Final EIS/EIR thus correctly concludes that “Alternative 4 would not introduce any development to private lands within the congressionally mapped GCW. There would be no effect under NEPA.” FEIS/EIR 4.3-18.

## **2. Revisions to certain Resource Protection Measures are unnecessary and unreasonable.**

To further minimize the project’s potential environmental impacts, the Selected Alternative incorporates well over one hundred RPMs developed by the Forest Service and Placer County. *See* Final EIS/EIR Appendix B. Several of these RPMs were revised from the Draft EIS/EIR to the Final EIS/EIR, mostly in response to public comments. On the whole, these revisions appear reasonable and feasible. However, as described below, SVAM has concerns with the changes that were made to three specific RPMs without apparent reason or analysis. Because those unexplained changes could have negative implications for the project without reducing the project’s potential environmental impacts, SVAM respectfully requests that those changes be reconsidered and revised in the Final ROD.

### **NOI-6**

This RPM limits the hours and days of the week when noise-emitting construction activities, including blasting and helicopter flights, can take place. The version of this RPM included in the Draft EIS/EIR was consistent with the County noise ordinance, which limits such activity to weekdays from 7am to 8pm (or 6am to 8pm during daylight savings) and Saturdays from 8am to 6pm, and prohibits such activity on Sundays and federal holidays. The revised version of the RPM in the

Final EIS/EIR, however, extends this prohibition to Saturdays, without providing any analysis or explanation.

The revision to NOI-6 is unwarranted for two reasons. First, it is significantly broader than necessary. The change apparently was made in response to Comment 0179-7, which requested that blasting and helicopter flights not occur on Saturdays, when visitor use in the area is heaviest.<sup>2</sup> But the revision to NOI-6 prohibits *all* noise-generating activities on Saturdays, not just blasting and helicopter flights. The prohibition also applies to activities along the project's entire alignment, even though the precipitating comment focused only on the impact of noise on hikers. The majority of construction will occur on private land far from hiking trails and the Granite Chief Wilderness. In fact, the Selected Alternative will be 1,100 feet from the wilderness boundary at its closest point, and hikers using public trails to access the wilderness would be in proximity to construction activities for only a short period of time. Moreover, RPM NOI-3 already requires that helicopter flight patterns be designed to avoid and minimize flights over residential areas and the Five Lakes Trail, and prohibits them over the wilderness altogether. The Final EIS/EIR offers no basis for or explanation justifying the need to impose further noise restrictions.

Second, the prohibition on Saturday work would make it more difficult for SVAM to meet its commitment of completing project construction within one season. *See* RPM MUL-7. The project involves building almost 12,000 linear feet of aerial ropeway, two base terminals, and two mid-stations. While SVAM remains committed to devoting the resources necessary to accomplish the project in a timely manner, reducing the work week from 6 days to 5 will put increased pressure on the project schedule with no countervailing benefit.

In sum, a broad prohibition on noise-generating construction activities on Saturdays is not necessary to avoid or reduce substantial noise levels, and could interfere with project objectives and deadlines. We therefore request that RPM NOI-6 be revised to allow construction on Saturdays, consistent with the County noise ordinance and as reflected in the Draft EIS/EIR.

## NOI-1

This RPM relates to the designation of a Disturbance Coordinator responsible for responding to any local complaints about noise during construction. In response to a comment, the Final EIS/EIR revised this RPM to include a menu of options to address noise concerns. The revised RPM also requires the Disturbance

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<sup>2</sup> The revisions to NOI-6 are also identified in response to Comment 0166-23, but that comment does not address the days of the week in which construction activities should occur.

Coordinator to work with the construction contractor to identify and implement feasible site-specific noise-reduction measures. SVAM does not object to the expansion of NOI-1 to include these provisions.

However, one component of the revised NOI-1 should be removed: the application of the noise standards in the County noise ordinance (shown in Table 4.9-9 of the Final EIS/EIR) to construction activities. As specifically noted at Final EIS/EIR 4.9-11, the County noise ordinance explicitly *exempts* construction noise from the standards in this table. This reflects the fact that, although construction equipment might exceed the noise levels in the table, it is typically limited in duration. And, in the case of the gondola, construction will progress along a 2-mile corridor, so no one area or receptor will be subjected to construction noise for an extended period of time. Further, most construction activity will occur at a significant distance from sensitive receptors such as schools, hospitals, and residences. In addition, the full suite of RPMs addressing noise already contain performance standards that would reduce the effects of construction noise, including limiting the hours and days when construction activities can occur and the duration of construction. For these reasons, the application of County noise ordinance standards is neither appropriate nor necessary to comply with NEPA or CEQA. We therefore request that the first paragraph of NOI-1 be revised as follows:

Squaw Valley Ski Holdings will designate a Disturbance Coordinator, who will be responsible for responding to any local complaints about construction noise. The Disturbance Coordinator will determine the nature of the noise complaint and whether a residence or other noise-sensitive receptor is exposed to a noise level that is disruptive of normal activities for the sensitive land use where the complaint occurred and/or whether the construction activities in proximity to the sensitive receptor would occur for an extended period of time. ~~exceeds one or more of the noise level standards established in the Placer County Noise Ordinance (Article 9.36.060 Sound limits) and presented in Table 4.9-9 of the Draft EIS/EIR.~~ If the Disturbance Coordinator determines that construction noise is creating an unreasonable disturbance ~~a noise ordinance standard has been exceeded~~ at a sensitive receptor then the Disturbance Coordinator will work with the construction contractor to identify and implement site-specific measures to reduce the level of noise exposure ~~to less than the applicable County standard,~~ to the extent feasible. The Disturbance Coordinator will conclude its investigation of each local complaint within two full business days of receiving the complaint. If the investigation determines that feasible, effective noise exposure reduction measures are warranted given the level of disturbance and duration of construction activities in proximity to the sensitive receptor,

~~shall be implemented~~, then the ~~offending~~ construction activity creating the noise will not continue until the identified site-specific reduction measures are implemented. ...

## AQ-18

This RPM imposes restrictions on vehicle idling time during construction. The Draft EIS/EIR limited idling time for diesel-powered equipment to five minutes. The Final EIS/EIR retains this restriction but adds that “[i]dling of construction-related equipment and construction-related vehicles shall be minimized within 1,000 feet of any sensitive receptor (*i.e.*, house, hospital, or school).” No commenter requested this change, and no explanation for it appears in the Final EIS/EIR. This new limitation is unnecessary, difficult to implement, and would not result in measurable environmental benefits. We therefore request that it be removed and the prior version of the RPM be reinstated.


This RPM is relevant to only two impacts analyzed in the Final EIS/EIR: air quality (Impact 4.10-1) and vehicle fuel consumption (Impact 4.8-2). The addition of the 1,000-foot restriction to the RPM does not alter the analysis or conclusions regarding either of those impacts: the Final EIS/EIR correctly finds both impacts to be less than significant even *without* RPMs. *See* Impact 4.10-1; Impact 4.8-2.

Given the lack of benefits, the imposition of the 1,000-foot limitation is particularly unreasonable in light of the practical difficulties it would create. Although most construction activities will not occur in proximity to sensitive receptors, some inevitably will—such as the construction of the base terminal at Squaw Valley. For those activities, a restriction on idling within 1,000 feet would be unreasonable and impractical to implement. Instead, the existing 5-minute limitation on the duration of vehicle idling is sufficient to protect any sensitive receptors from substantial exposure to diesel emissions from construction activities.

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SVAM appreciates the Forest Service’s consideration of these comments and looks forward to reviewing the Final ROD.

Sincerely,



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*Counsel for Squaw Valley | Alpine Meadows*